

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Public Testimony of Clandestine Services Officers

FROM:

David D. Gries
 Director of Congressional Affairs

EXTENSION

NO.

DATE

21 May 1987

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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For your meeting with
 Senators Boren and Cohen.

20 May 1987

NOTE FOR: The Acting Director
FROM: Dave Gries
SUBJECT: Public Testimony of Clandestine Services Officers
REFERENCES: Tab A - 30 April Memo recommending a strategy
Tab B - Your 4 May letter to Congressmen Inouye,
Rudman, Hamilton and Cheney
Tab C - My 20 May letter to Deputy Counsel Eggleston

STAT

As you know, we have been working hard since late April to obtain Select Committee agreement not to require public testimony from clandestine services officers. You have telephoned key Congressmen, written a letter to Select Committee leaders (tab B), and talked to Frank Carlucci. I have worked at staff level and have responded to a letter from Deputy Chief Counsel Eggleston (tab C).

On 19 May Robert Owen testified before the Select Committees. His many references to Joe Fernandez have whetted Committee interest in obtaining Fernandez' public testimony. We understand from staff that a decision is imminent.

--I recommend that you call Carlucci, apprise him of current developments and ask him to involve the White House, especially Chief of Staff Baker. Baker is uniquely qualified to telephone Senator Inouye, who was Chairman of the Senate Select Committee on Intelligence during the period when Baker was Vice Chairman of the Committee. Baker will have his own ideas about others to call.

--You should also consider asking Colby, McMahon, Inman or Helms to place telephone calls.

--I also recommend that you discuss this issue with Senators Boren and Cohen in your upcoming meeting with them.

Attachments
References (as stated)

cc: DDO

~~CONFIDENTIAL~~

A

30 April 1987
OCA 87-1830

NOTE FOR: The Acting Director
FROM: David D. Gries
Director of Congressional Affairs
SUBJECT: Public Testimony of Agency Employees

25X1

As you are aware, the press is again reporting that the Select Committees may require public testimony from Agency employees. Staff level checks support these reports, though no final decision has yet been made. They apparently are considering calling Fernandez now

25X1

I believe we should respond incremently so as to make our point, but without turning a generally helpful staff against us and provoking a confrontation which we might lose.

Therefore, using the attached letter for talking points, I recommend that you telephone Hamilton, Cheney and Inouye (you have already talked to Rudman) today or tomorrow. That is all we need to do for now.

Depending on the outcome of the telephone calls and other developments, we may suggest that you send the letter on Friday or Monday to some or all the Members of the two Select Committees.

As a final step, held in reserve for next week, we may recommend that you send copies of the letter to others who might be willing to help us. Some names that come to mind are Colby, McMahon, Inman, Helms, Schlesinger, Tower, Skowcroft, Brzezinski and Kissinger.

However, for the moment we don't want to escalate beyond the precautionary telephone calls.

Attachment

Distribution:

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D/OCA:DDGries:mdu (30 Apr 1987)

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~~CONFIDENTIAL~~

Central Intelligence Agency



Washington, D.C. 20505

4 May 1987
OCA 87-1824

The Honorable Daniel K. Inouye, Chairman
Select Committee on Secret Military Assistance
to Iran & the Nicaraguan Opposition
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Press reports continue to circulate that the House and Senate Select Committees on Secret Military Assistance to Iran and the Nicaraguan Opposition may ask employees of the Central Intelligence Agency's clandestine services to testify under oath in public hearings. While I and other Agency officials in discussions with your staff have already outlined the serious problems this would pose for us, I believe this issue is so critical that I want to make our great concern and the reasons for objecting to public testimony absolutely clear. I also want to apprise the Committee that I have consulted with National Security Adviser Carlucci, and he has informed me that this is a matter of importance to the President.

Let me emphasize at the outset that any Agency employee is available to the Select Committees to testify under oath in a closed session. As you know, CIA personnel have already given sworn depositions to Committee staff. The Agency is fully prepared to work with the Committees to produce expeditiously for public release a declassified version of any such testimony. Indeed, I am prepared to commit all necessary resources to ensure that testimony taken in executive session is sanitized and declassified for public use within 24 hours. Accordingly, the issue is not whether information from Agency employees can be put before the public, but whether it is necessary or appropriate for CIA clandestine services employees to appear in open Committee proceedings.

First, there is the issue of precedent. As far as I can determine, no active duty member of the CIA clandestine service has ever testified under oath in a public hearing before the Congress. Although the question of public testimony was considered during the Church and Pike Committee hearings of the 1970s, both those Committees accepted the Agency's argument against public exposure of its employees other than the Director. Both the Senate and House Intelligence Committees have also respected this principle through the years.

It is also important to keep in mind that virtually any staff employee the Committee may wish to call as a witness must travel or live abroad to carry out his or her duties. Public exposure could eliminate the possibility of future service abroad because of personal and operational security problems and reluctance of foreign governments to allow known Agency employees to be stationed in their countries. Although it is true that the names of some of these employees may have appeared in the media, this does not necessarily confirm affiliation with the Agency. On the other hand, public testimony before Congress would confirm official CIA affiliation, and when linked with photographs appearing in the media, would confirm identity as well. I appreciate plans apparently under consideration by Committee staff to prohibit television and still photography of Agency employees, but I question whether these plans are workable or seemly for an Agency official.

Apart from the public disclosure of the identities of our personnel, we are deeply concerned about the kinds of information our witnesses may be asked to furnish in open session. Even with detailed advance preparation and negotiations with staff, there is no way to ensure that a Member will not press for an answer that would require the revelation of highly sensitive information. In short, there would be no way to control the course of an interrogation being played out in public. In this regard, there are rules and safeguards built into the Resolutions establishing the Committees themselves (especially on the Senate side) that require Congressional compliance with detailed procedures in connection with any demand for open session disclosure of classified identities and/or information.

Finally, the appearance of clandestine service employees in public hearings would risk serious consequences for our relationships overseas and our ability to conduct clandestine operations.

For all these reasons, I urge your careful consideration of this issue. I know that the Congress shares with the Executive Branch the goal of making U.S. intelligence as strong as possible. We also share the belief that U.S. intelligence should operate under vigorous Congressional scrutiny. At the same time, an effective secret intelligence agency must remain secret. I ask the Committees to join us in keeping it that way and request an opportunity to discuss this matter further before any final decision is made to call as a witness any member of the Agency's clandestine service. A copy of this letter is also being provided to Vice Chairman Rudman.

Sincerely,



Robert M. Gates
Acting Director of Central Intelligence

CENTRAL INTELLIGENCE AGENCY



Washington, D.C. 20505

4 May 1987
OCA 87-1825

The Honorable Warren Rudman, Vice Chairman
Select Committee on Secret Military Assistance
to Iran & the Nicaraguan Opposition
United States Senate
Washington, D.C. 20510

Dear Mr. Vice Chairman:

Press reports continue to circulate that the House and Senate Select Committees on Secret Military Assistance to Iran and the Nicaraguan Opposition may ask employees of the Central Intelligence Agency's clandestine services to testify under oath in public hearings. While I and other Agency officials in discussions with your staff have already outlined the serious problems this would pose for us, I believe this issue is so critical that I want to make our great concern and the reasons for objecting to public testimony absolutely clear. I also want to apprise the Committee that I have consulted with National Security Adviser Carlucci, and he has informed me that this is a matter of importance to the President.

Let me emphasize at the outset that any Agency employee is available to the Select Committees to testify under oath in a closed session. As you know, CIA personnel have already given sworn depositions to Committee staff. The Agency is fully prepared to work with the Committees to produce expeditiously for public release a declassified version of any such testimony. Indeed, I am prepared to commit all necessary resources to ensure that testimony taken in executive session is sanitized and declassified for public use within 24 hours. Accordingly, the issue is not whether information from Agency employees can be put before the public, but whether it is necessary or appropriate for CIA clandestine services employees to appear in open Committee proceedings.

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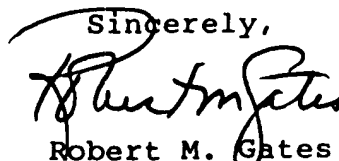
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For all these reasons, I urge your careful consideration of this issue. I know that the Congress shares with the Executive Branch the goal of making U.S. intelligence as strong as possible. We also share the belief that U.S. intelligence should operate under vigorous Congressional scrutiny. At the same time, an effective secret intelligence agency must remain secret. I ask the Committees to join us in keeping it that way and request an opportunity to discuss this matter further before any final decision is made to call as a witness any member of the Agency's clandestine service. A copy of this letter is also being provided to Chairman Inouye.

Sincerely,



Robert M. Gates
Acting Director of Central Intelligence

CENTRAL INTELLIGENCE AGENCY



Washington, D.C. 20505

4 May 1987
OCA 87-1826

The Honorable Lee H. Hamilton, Chairman
Select Committee to Investigate Covert
Arms Transactions with Iran
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Press reports continue to circulate that the House and Senate Select Committees on Secret Military Assistance to Iran and the Nicaraguan Opposition may ask employees of the Central Intelligence Agency's clandestine services to testify under oath in public hearings. While I and other Agency officials in discussions with your staff have already outlined the serious problems this would pose for us, I believe this issue is so critical that I want to make our great concern and the reasons for objecting to public testimony absolutely clear. I also want to apprise the Committee that I have consulted with National Security Adviser Carlucci, and he has informed me that this is a matter of importance to the President.

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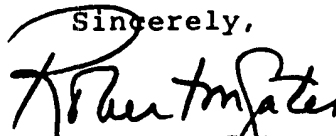
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Sincerely,



Robert M. Gates

Acting Director of Central Intelligence

Central Intelligence Agency



Washington, D.C. 20505

4 May 1987
OCA 87-1827

The Honorable Dick Cheney
Ranking Minority Member
Select Committee to Investigate Covert
Arms Transactions with Iran
House of Representatives
Washington, D.C. 20515

Dear Mr. Cheney:

Press reports continue to circulate that the House and Senate Select Committees on Secret Military Assistance to Iran and the Nicaraguan Opposition may ask employees of the Central Intelligence Agency's clandestine services to testify under oath in public hearings. While I and other Agency officials in discussions with your staff have already outlined the serious problems this would pose for us, I believe this issue is so critical that I want to make our great concern and the reasons for objecting to public testimony absolutely clear. I also want to apprise the Committee that I have consulted with National Security Adviser Carlucci, and he has informed me that this is a matter of importance to the President.

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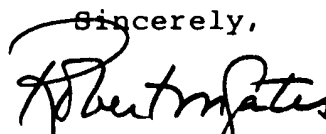
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Sincerely,



Robert M. Gates

Acting Director of Central Intelligence

Distribution:

Original - Addressee (Chmn Inouye - OCA 87-1824)
(VChmn Rudman - OCA 87-1825)
(Chmn Hamilton - OCA 87-1826)
(Ranking Min. Mbr Cheney - OCA 87-1827)

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D/OCA:DDGries:mdo (4 May 1987)

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